

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**  
**41 U.S.C. 3304; FAR 6.302-2, Unusual and Compelling Urgency**

Pursuant to the requirements of the Competition in Contracting Act (CICA) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.3 and in accordance with the requirements of FAR 6.303-1, the justification for the use of the statutory authority under FAR Subpart 6.3 is justified by the following facts and rationale required under FAR 6.303-2, as follows:

**1. Agency and Contracting Activity.**

The Department of Homeland Security, U.S. Border Patrol (USBP), Remote Video Surveillance System (RVSS) Upgrade Program Management Office Directorate (PMOD) proposes to modify contract HSBP1013C00042 with General Dynamics One Source (GDOS) on the basis of other than full and open competition in order to deploy no later than 26 September 2017 and maintain for eight months a Remote Video Surveillance System (RVSS) in the San Diego Sector.

**2. Nature and/or description of the action being approved.**

This Justification and Approval (J&A) addresses the effort to temporarily deploy no later than 26 September 2017 and maintain for eight months a Remote Video Surveillance System in the San Diego Sector to provide situational awareness capability in and around the Border Wall Prototype construction site. Although there are 15 similar system deployments on contract HSBP1013C00042 with General Dynamics One Source (GDOS), this deployment is considered out of scope because the contract's geographical scope does not include any system deployments into the San Diego Sector. The following additional information is also provided:

- a. Type of Action: The following two modifications will be used in order to add the deployment and eight months of maintenance to the contract:
  1. Modification 28 to contract HSBP1013C00042 added the system deployment and two months of maintenance via an Undefinitized Contract Action. Modification 28 was awarded September 18, 2017. Once definitized, both the deployment and two months of maintenance will be Firm Fixed Price; and
  2. A separate modification will add the final six months of Firm Fixed Price maintenance to the contract. Due to the fact that the duration of this deployment is currently undetermined, the final six months of maintenance will be awarded in six separate Firm Fixed Price Option CLINs that the Government can exercise only if needed.

- b. Amount: The total value of the deployment and up to eight months of maintenance is estimated to be under [REDACTED], of which [REDACTED] was added to the contract on 9/18/2017 via modification 28. Prior to modification 28, the total value of the contract was \$117,350,624.31. Therefore, this requirement will add no more than about [REDACTED], or [REDACTED] to the total value of this contract.
- c. Type and Year of Funding: Modification 28 added [REDACTED] in 2016 BSFIT funding for the deployment and [REDACTED] in 2017 Common Appropriations Structure (CAS) funding for the maintenance. Additional maintenance will be funded appropriately upon award/option CLIN exercise.

### **3. Description of Supplies/Services.**

CBP's requirement is to temporarily deploy a relocatable Remote Video Surveillance System in San Diego, CA in order to provide situational awareness capability in and around the wall construction sites. The requirement is to complete system deployment no later than 26 September 2017 to support the start of Border Wall prototype construction.

The deployed system will require maintenance for up to eight months after deployment. Again, because the timeframe is currently undefined, the eight months of maintenance will be awarded in monthly firm-fixed priced options which can be exercised only if there is a continuing need for maintenance services. Upon completion of this mission, this relocatable system will be redeployed to support other RVSS system deployments in the Rio Grande Valley.

**Table 1: Summary of Costs**

<u>Deployment/Maintenance</u>	<u>Cost Estimate</u>	<u>Delivery Date/Period of Performance</u>
Deployment	[REDACTED]	On or before 9/26/2017
Maintenance	[REDACTED] ( [REDACTED] /month)	9/27/2017 – 5/27/2018

### **4. Identification of Statutory Authority Permitting Other Than Full and Open Competition.**

The statutory authority permitting other than full and open competition is 41 U.S.C. 3304(a)(2) pursuant to FAR 6.302-2, Unusual and Compelling Urgency. This is not a response to, or recovery from, a natural disaster, act of terrorism, or other man-made disaster. The one-year period of performance limitation in FAR 6.302-2(d) applies.

### **5. Demonstration That the Nature of the Acquisition Requires Use of the Authority Cited.**

- a. Background information about the requirement:

Given the charged atmosphere surrounding CBP's procurement of Border Wall prototypes, the Agency determined that it was necessary to deploy surveillance technology to the construction site in order to provide situational awareness related to threats against the site, and against the contractors building the prototype walls on behalf of CBP. The capability was needed no later than 26 September 2017 to support the start of the Border Wall Prototype construction.

General Dynamics has proven that its system can provide the required situational awareness. General Dynamics has completed five deployments in Arizona and is currently deploying multiple systems in Texas. The five Arizona deployments achieved "Full Operating Capability" (FOC) as of December 2016 and Border Patrol Agents currently operate those five systems 24 hours a day and seven days a week.

b. Details covering what events lead to the situation requiring use of other than full and open competition procedures

As described above, due to the intensifying and evolving threat environment surrounding construction of Border Wall prototypes, CBP has a requirement to provide situational awareness at the construction site for the Border Wall prototypes. This requirement, and the full extent of the threat environment, did not become manifest until early September 2017, at which point it was determined that the only way to satisfy the requirement prior to the 26 September 2017 start date for construction on the wall prototypes, was to utilize the existing RVSS contract with GDOS. The lead time for a fixed tower RVSS deployment is typically 23 to 37 weeks. However, RVSS relocatable towers and sensor equipment had already been ordered by the contractor for another CBP deployment. Since the spare relocatable tower and sensor equipment had not yet been deployed, it was available for immediate deployment in San Diego. In addition, CBP concluded that the RVSS relocatable tower solution was a logical choice since placement of this RVSS tower was essentially an extension of the existing RVSS system in place along the border in San Diego, and the tower would also provide surveillance of two areas at one time.

c. Why considered alternatives will not work

Alternative government-based solutions from both the Federal Aviation Administration (FAA) and the Office of Information and Technology (OIT) were considered but the technical and schedule risk for both solutions was considered too high. Not only did each alternative solution require the acquisition of additional equipment, but also neither had been assembled and neither was ready to deploy. Not only was the RVSS Upgrade Program able to provide the surveillance required, but also the equipment required for the Border Wall prototype construction surveillance was available for immediate deployment and there was a contract available to fulfill the need.

Alternative mobile solutions were considered, but those assets were currently in use and would have created a gap in capability somewhere else if moved. Additionally, those units could not simultaneously observe two areas at one time. No other vendor and solution could have provided the required capability by 26 September 2017.

Furthermore, the RVSS Relocatable Pilot has already demonstrated that this technology could be deployed rapidly. This rapid deployment capability had already been demonstrated by the RVSS Program during the relocatable pilot program deployment in Laredo, Texas.

d. Which authority applies and why

FAR 6.302-2, Unusual and Compelling Urgency, applies. There was a requirement to deploy surveillance technology, with a typical lead time of several months, in two weeks. Not only was a competition unrealistic in that timeframe, but CBP relied on equipment already ordered but not yet deployed in order to provide the surveillance capability by 26 September 2017.

e. Explain the impact to the mission that would result if the J&A is not approved, and, consequently the product or service not provided

Due to the 26 September 2017 start date for prototype construction, as of the writing of this document, General Dynamics has already deployed the system in San Diego, General Dynamics is already providing maintenance on the system, and the system is already providing situational awareness related to the emerging threat of demonstrations. Had the Government not proceeded using the authority in FAR 6.302-2, the RVSS capability could not have been provided by 26 September 2017 and adequate security for the wall project, specifically related to the emerging threat environment, would not have been in place in time to fulfill the Agency's requirement.

6. **Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.**

It was not practical to solicit offers given the immediate nature of the security requirement and the long lead time typically required to procure similar surveillance capabilities (as described above).

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable.**

The Contracting Officer will determine that prices are fair and reasonable by making use of the following:

- An Independent Government Cost Estimate (IGCE) which is currently under development;
- Comparisons to similar deployment work already on contract will be made;
- Comparisons to similar maintenance work already on contract will be made;
- Program Management Office resources, who are in the field alongside General Dynamics' resources and with first-hand knowledge of General Dynamics' deployment and maintenance work, will contribute to the technical evaluation; and
- Certified cost proposals will be obtained from the contractor.

#### **8. Description of Market Research.**

It was not practical to conduct specific market research for this effort given the immediate nature of the requirement. However, market research was finalized this year on future RVSS work in which the technical requirement was similar to this technical requirement. That market research indicated that long-lead times varied from 18 to 40 weeks, with a mean of 28 weeks.

#### **9. Any Other Facts Supporting the Use of Other Than Full and Open Competition.**

The current contract HSBP1013C00042 with General Dynamics One Source (GDOS) was competed and General Dynamics was selected. Future contracts for similar RVSS technology will be competed. However, those competitions and subsequent deployments take months and years. Here, due to the immediacy of the security requirement, it was not possible to compete the requirement, award the requirement, and have the awardee manufacture and deploy the system in a matter of weeks.

#### **10. A Listing of the Sources, if Any That Expressed, in Writing, an Interest in the Acquisition.**

None that are known.

#### **11. A Statement of the Actions, if Any, the Agency May Take to Remove or Overcome Any Barriers to Competition Before Any Subsequent Acquisition for Supplies or Services Required.**

This effort uses relocatable technology and is intended to be a temporary deployment. When the San Diego security mission is complete, CBP's intent is to re-deploy the relocatable RVSS technology in the Rio Grande Valley Sector. Having said that, the overall RVSS technology and maintenance requirement is suitable for competition. The current contract with General Dynamics was competed and future contracts will be

competed. Again, the competition, award, and deployment takes considerable time which was not available for this specific San Diego temporary requirement.